IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 17265 of 2005
WITH
SPECIAL CIVIL APPLICATION No. 18810 of 2005
WITH
SPECIAL CIVIL APPLICATION No. 18811 of 2005

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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HARSHADBHAI CHINUBHAI PATEL & 7 - Petitioner(s)

Versus

STATE OF GUJARAT & 5 - Respondent(s)

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Appearance :
MR HARIN P RAVAL for Petitioner(s) : 1 - 8.
MR. MR MENGDE, ASSTT. GOVERNMENT PLEADER for Respondent(s) : 1,
None for Respondent(s) : 2 - 5.
MR AJ PATEL for Respondent(s) : 6,

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 12/09/2005

COMMON ORAL JUDGMENT

1.In this petition under Article 226 of the Constitution

of India, the petitioners have challenged the legality and validity of the judgment and order passed by the Additional Chief Secretary (Appeals), Revenue Department, State of Gujarat dated 31.3.2005 passed in Revision Application Nos.72/1998, 73/1998 and 103/1998 with respect to revenue Entry Nos. 3430, 5272, 5273 and 5274 in respect of the land bearing Survey No.157 situated at Bodakdev, Taluka Daskroi, District Ahmedabad.

2.It appears from the record that vide Entry No.3430 the name of Rameshbhai Ballubhai Desai i.e. respondent No.4 herein came to be mutated in the revenue record on the basis of registered sale-deed dated 16.4.1983. Vide Entry No.5272 dated 11.4.1994 the name of Jivtiben daughter of Lilaji Ramaji came to be mutated in the revenue record. Vide Entry No.5273 dated 11.4.1996 the name of Chunibhai Bhalabhai came to be mutated in the revenue record and vide Entry No.5274 the names of heirs of Chunibhai Bhalabhai came to be mutated in the revenue record. It appears from the record that Entry No.3430 came to be challenged by the petitioners and Entry Nos. 5272, 5273 and 5274 came to be challenged by the contesting respondents and ultimately the

proceedings went up to the Additional Chief Secretary (Appeals), Revenue Department, State of Gujarat being Revision Application Nos.72/1998, 73/1998 and 103/1998 and the Additional Chief Secretary (Appeals), Revenue Department, State of Gujarat vide his judgment and order dated 4.4.2005 allowed the Revision Application Nos.72/1998 and 103/1998 submitted by the contesting respondents and dismissed the Revision Application No.73/1998 filed by the petitioner No.1-Harshadbhai Chinubhai Patel by further confirming the order passed by the Collector, Ahmedabad dated 4.5.1998 confirming Entry No.3430 and quashing and setting aside the order passed by the Mamlatdar, Daskroi dated 25.3.1996 as well as the order passed by the Prant Officer, Viramgam dated 15.4.1997 and the Collector, Ahmedabad dated 15.5.1998 which were confirming Entry Nos.5272, 5273 and 5274, meaning thereby, the Additional Chief Secretary (Appeals) by impugned judgment and order set aside Entry Nos.5272, 5273 and 5274.

3. Being aggrieved and dissatisfied with the common judgment and order passed by the Additional Chief Secretary (Appeals), Revenue Department, State of Gujarat dated 31.3.2005 passed in Revision Application

Nos.72/1998, 73/1998 and 103/1998, the respective petitioners have preferred the present Special Civil Applications being Special Civil Application Nos.17265/2005, 18810/2005 and 18811/2005.

4. Number of submissions have been made on behalf of both the parties. However, it is required to be noted that the dispute is with regard to revenue entries and as held by the Hon'ble Supreme Court in case of ***Durgadas V/s. Collector & Others*** reported in ***(1996) 5 SCC Page-618*** and in case of ***Shankalchand Jaychandbhai Patel & Others V/s. Vithalbhai Jaychandbhai Patel & Others*** reported in ***(1996) 6 SCC Page-433*** as well as, as held by this Court in case of ***Ratilal Chunilal Solanki & Others V/s. Shantilal Chunilal Solanki & Others*** reported in ***1996 (1) GLH Page-816*** and in case of ***LRs. of Popat Khima Ramani & Others V/s. Collector, Rajkot & Others*** reported in ***2003 (1) GLH Page-30*** and in catena of judgments of this Court, revenue entry does not confer any right, title or interest and the revenue entries are basically for fiscal purpose of recovering revenue and if there is any dispute between the parties with regard to the title, the parties are required to be relegated to approach the Civil Court for

establishing their rights. The necessary entries can be modified and/or made on the basis of the decision of the Civil Court. In the present case, there are two Civil Suits pending between the parties one being Regular Civil Suit No.378/1993 pending in the Court of learned Second Joint Civil Judge (J.D.), Ahmedabad (Rural), Mirzapur and another being Regular Civil Suit No.1013/1995 pending in the Court of learned Civil Judge (S.D.), Ahmedabad (Rural), Mirzapur. Therefore, the parties have already approached the Civil Court for establishing their rights. Under the circumstances, while disposing of the present Special Civil Applications, it is observed that only on the basis of aforesaid Entries the same will not confer any right, title or interest in favour of the parties in whose favour the Entries are made. The Revenue Authority is directed to make an additional entry in the revenue record with regard to the land bearing Survey No.157 situated at Bodakdev, Taluka Daskoi, District Ahmedabad that the said Entry/Entries is/are subject to the ultimate outcome of the Regular Civil Suit No.378/1993 as well as Regular Civil Suit No.1013/1995 and it is also further observed that necessary entry can be modified and/or mutated on the basis of the judgment

and decree that may be passed by the Competent Civil Court in the aforesaid two Civil Suits.

5.With these observations and direction, the present Special Civil Applications are disposed of.

(M.R.SHAH, J.)

kdc.